

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CAREY SCHWEINFURTH, ET AL.,)	CASE NO.1:05CV024
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
Vs.)	
)	
MOTOROLA, INC.,)	ORDER
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on Defendant Motorola, Inc.'s Objections to the Magistrate's December 3, 2007 Order on Motorola, Inc.'s Motion to Compel. Having reviewed Defendant's Objections, the Court affirms the Magistrate Judge's Order.

Plaintiffs' Complaint alleges that Motorola's cell phone charging ports failed at a rate well above industry standards. Motorola propounded to Plaintiff Roth an interrogatory seeking information on Plaintiffs' industry standard allegation, including the source of the industry standard, its meaning according to Plaintiffs and what research was conducted by Plaintiff into the industry standard.

The Magistrate Judge found this interrogatory to be a contention interrogatory under Fed. R. Civ. P. 33(a)(2) and allowed Plaintiffs to withhold a response until more discovery

was completed. Defendant objects to the Magistrate Judge's holding and contends the interrogatory was not a contention interrogatory and even if it is, there is no reason to delay a response.

Defendant also objects to the Magistrate Judge's Order denying Defendant discovery of Plaintiffs' landline telephone usage as irrelevant.

STANDARD OF REVIEW

When a magistrate judge determines a pretrial, nondispositive issue, a party may submit objections to the district court judge assigned to the case. The district court judge may review the magistrate judge's determination, if timely objection is made, and must modify or set aside any part of the order that is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a).

ANALYSIS

Having reviewed the Magistrate Judge's Order of December 3, 2007, and the parties' objections and responses the Court finds the Order was not clearly erroneous or contrary to law. However, the Court Orders Plaintiffs to respond to the interrogatory on industry standards within thirty days of the filing of this Order. Furthermore, the Court Orders the parties to submit to the Court a joint status report on discovery no later than February 6, 2009.

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

January 26, 2009